



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,267	08/14/2001	Hans-Wulf Pfeiffer	03466-P0001B	9985
24126	7590	06/07/2006	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			HOFFMANN, JOHN M	
			ART UNIT	PAPER NUMBER

1731

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/929,267	Applicant(s) PFEIFFER, HANS-WULF	
	Examiner John Hoffmann	Art Unit 1731	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 07 April 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☒ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

The Brief does not contain a copy of either piece of evidence. The Brief lacks the required statement re the evidence: it does not include any indication as to where in the record the Hollstein reference was entered by the examiner. Whereas applicant argues that the Hollstein reference is non-essential subject matter, it is nonetheless evidence that must be properly and timely entered into the record. Moreover the Brief appears to refer to a (partial) translation which has not been entered into the record. The plain reading of 37 CFR 41.37 and 41.33 provides no exception for evidence related to "non-essential subject matter". Furthermore, Hollstein is not incorporated by reference - thus the specification does not contain the subject matter that Hollstein contains.. Still further, it is clear that any evidence submitted has to be in a language that the Examiner and the Board can understand. Any Brief that contains reference to Hollstein will be held to be defective. It is well settled that Appellants cannot withhold relevant evidence from the Office until the appeal- and expect to have it considered - with good showing as to why it is necessary.

John Hoffmann
Primary Examiner
Art Unit: 1731

[Handwritten signature]
6-2-06